

Doc Code: AP.PRE.REQ

PTO/SB/33 (01-09)

Approved for use through 02/28/2009. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

11000060-0033

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on May 26, 2009

Signature /Sharon A. Smith/

Typed or printed name Sharon A. Smith

Application Number

10/668,732

Filed

September 23, 2003

First Named Inventor

Nandhu Kumar et al.

Art Unit

2453

Examiner

Philip J. Chea

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 60,703

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

/Nam H. Huynh/

Signature

Nam H. Huynh

Typed or printed name

214-259-0971

Telephone number

May 26, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒

*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:)	
)	
Nandhu Kumar et al.)	
)	Examiner: Philip J. Chea
Serial No. 10/668,732)	
)	Group Art Unit: 2453
Filed: September 23, 2003)	
)	Confirmation No.: 2470
)	
For: QUEUING CONNECTOR TO PROMOTE MESSAGE SERVICING		

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF

Applicants file this pre-appeal brief in conjunction with a Notice of Appeal in response to the Final Office Action mailed on January 23, 2009. Applicants request reconsideration of the application for the reasons set forth below.

REMARKS

In the Final Office Action dated January 23, 2009, the Examiner rejected Claims 1-2, 7-16, 18-21, and 23 stand rejected under 35 U.S.C. 102(e) as being anticipated by Williamson et al. (US 6,915,519, hereinafter, "Williamson"). Applicants traverse this rejection.

A. **Independent Claim 1**

A system for message service, comprising:

- a memory operable to store computer executable instructions;
- a processor operable to execute the computer executable instructions, said instructions comprising:
 - a business component utilizing messages;
 - a first queue to manage message services, the first queue employing an architecture other than a publication/subscription type notification;
 - a wrapper to enable the first queue to operate a publication/subscription notification type of architecture; and

a connector in communication with the first queue via the wrapper, the connector further in communication with the business component, the connector receiving messages from the first queue via the wrapper and sending the messages being received from the first queue via the wrapper to the business component, thereby enabling a user to utilize the business component to access information in the messages from the first queue.

B. 35 U.S.C. § 102-Standard

Under 35 U.S.C. § 102, a claim is anticipated only if each and every element as set forth in the claim is found in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051 (Fed. Cir. 1987); M.P.E.P. § 2131. In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); M.P.E.P. § 2131.

C. Arguments

Williamson does not anticipate Claim 1 because Williamson does not disclose each and every element as set forth in the claim. For instance, Claim 1 recites "a first queue to manage message services, the first queue employing an architecture other than a publication/subscription type notification" (emphasis added). The Examiner appears to be unfamiliar with Java Message Service (JMS) and in particular to publication/subscription type notification as referenced in Claim 1. The Examiner appears to equate a JMS resource to a "queue employing an architecture other than a publication/subscription type notification" as recited in Claim 1. (See, Final Office Action, p.3). Applicants disagree.

A publication/subscription type notification is an asynchronous messaging paradigm where senders (publishers) of messages are not programmed to send their messages to specific receivers (subscribers). Rather, published messages are characterized into classes, without knowledge of what

(if any) subscribers there may be. Subscribers express interest in one or more classes, and only receive messages that are of interest, without knowledge of what (if any) publishers there are. In other words, publication/subscription type notification is a particular way of notifying a receiver of a sent message. (See Specification, par. [0023], "The message queue 14 uses a publication/subscription notification type of architecture to notify the queue connector 10 when the message queue 14 has a message or notification to deliver to the queue connector 10 through the coupling 24.") Additionally, the Specification, at least on page 4, par. [0010], states that other ways of notifying a receiver of a sent message may include, but is not limited to, polling notification. These types of notification may be implemented as set forth in the Java Message Service (JMS) Application Programming Interface (API) standard. (See Specification, page 8, par. [0023], "In one embodiment, this publication/subscription notification type of architecture may follow the JMS standard.") Java Message Service (JMS) is a standard API for accessing enterprise messaging systems and enables Java applications that share a messaging system to exchange messages.

Williamson also states in its Background section, that "The application programming interface (API) specification for JMS defines two "domains" for types of messaging--point-to-point (PTP) and publish/subscribe." (Williamson, Col. 3, line 66 – Col. 4, line 1). However, Williamson does not disclose or even suggest enabling a queue that does not utilize publication/subscription type notification to utilize publication/subscription type notification via a wrapper as recited in Claim 1. In the cited portion of Williamson relied upon by the Examiner, Williamson discloses an application retrieving a JMS resource. (Williamson, col. 7, ll. 15-20). A JMS resource is simply an object utilized by an application in connection with Java Message Service. Williamson states that the application casts the retrieved JMS resource as the appropriate JMS resource type, e.g., a JMSQueue. *Id.* Casting a JMS resource to an appropriate JMS resource type simply means that the application changes the retrieved JMS resource reference to a compatible type that is utilized by the application. A JMSQueue is simply "a staging area that contains messages that have been sent and

are waiting to be read". (See Wikipedia, http://en.wikipedia.org/wiki/Java_Message_Service). However, simply casting a JMS resource to a JMSQueue does not disclose or even suggest a particular type of notification method that is being utilized by the queue. Accordingly, Williamson does not disclose "a first queue employing an architecture other than a publication/subscription type notification" or "a wrapper to enable the first queue to operate a publication/subscription notification type of architecture" or any of the remaining limitations of Claim 1. Consequently, for at least the above stated reasons, Williamson does not anticipate Claim 1.

CONCLUSION

For the foregoing reasons, and for other apparent reasons, the Office Action fails to establish a prima facie case that Williamson anticipates Claim 1 or any of the other independent and dependent claims under 35 USC 102. Applicants respectfully request reconsideration and favorable action. Applicants believe no fee is due. However, if a fee is due, please charge our Deposit Account No. 19-3140, under Order No. 11000060-0058 from which the undersigned is authorized to draw.

Dated: May 26, 2009

Respectfully submitted,

/Nam H. Huynh/

Nam H. Huynh
Registration No.: 60,703
Sonnenschein, Nath & Rosenthal
2000 McKinney, Suite 1900
Dallas, Texas 75201
(214) 259-0971
Fax #: (214) 259-0910
Attorney for Applicants